IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

Crl.MC.No. 3692 of 2007()

CC.129/2004 of JUDL.MAGISTRATE OF FIRST CLASS, KOYILANDY

.....

PETITIONER: ACCUSED

SOBHAKUMAR.G.
S/O. GOPINATHAN NAIR
SUNRISE TELEVISION, SITHARA
JUDGE LANE, KARAMANA PO
THIRUVANANTHAPURAM.

BY ADV. SRI.GOPAKUMAR R.THALIYAL

RESPONDENTS: STATE

STATE OF KERALA ,REPRESENTED BY THE
PUBLIC PROSECUTOR HIGH COURT OF KERALA
ERNAKULAM.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3692 OF 2007

Dated this the 11th day of December, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. Cognizance was taken as early as in 2004 as can be seen from the number assigned – C.C.No.129/04 of the learned Judicial Magistrate of the First Class, Koyilandy. The petitioner has not entered appearance so far. Reckoning him as an absconding accused, coercive processes have been issued against him by the learned Magistrate. The petitioner finds such warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But the petitioner apprehends that his application

for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to

the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge